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June 21, 2018

Via ECF

The Honorable Vince Chhabria, U.S.D.J.
United States District Court Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

**RE: *In re: Facebook, Inc., Consumer Privacy User Profile Litig.*, MDL No. 2843,
Case No. 18-md-02843-VC (N.D. Cal.)**

Dear Judge Chhabria:

My name is James Cecchi. I am an attorney located in the State of New Jersey. I have twenty-seven years of experience litigating complex commercial, criminal and class actions, first as an Assistant United States Attorney and now as a private litigator representing both plaintiffs and defendants. In the past ten years, I have been privileged to serve in leadership positions in some of the largest and most important national MDLs including Volkswagen, Takata Airbags, and the Opioid MDL, pending before the Honorable Dan Polster. I respectfully submit my application for appointment as Lead Counsel. In the alternative, should the Court be inclined to consider a Plaintiffs' Steering Committee ("PSC"), I would be honored to serve as one of those lawyers. I have attached my resume (Exhibit 1) and a list of counsel supporting my appointment (Exhibit 2).

This litigation concerns an unprecedented breach of trust committed by Facebook which allowed Cambridge Analytica (UK) Ltd., and others, to secretly and unlawfully harvest highly sensitive personal information of Facebook users. The data was utilized in a variety of nefarious ways, including to influence the outcome of the 2016 Presidential election. As such, it has enormous public policy implications including whether the conduct that allowed this breach of trust is ongoing and can improperly influence the upcoming national mid-term elections. For this reason, this Court should anticipate that the litigation will move quickly and, in my judgment, necessitate early focused applications for injunctive relief. If appointed Lead Counsel, I will advocate such an approach. At a minimum, this case requires expedited and focused discovery with an eye toward an early trial. The privacy issues to consumers, as well as the broad public policy concerns that exist here, are too important to treat this case in any other fashion.

The diverse and broad array of cases where I have served in leadership roles suggests that I can play a positive and productive role in this case. Importantly, my experience vindicating consumer rights is not limited to one discrete practice area but encompasses disciplines involving consumer fraud claims, antitrust claims, securities claims, and product defect cases. By way of

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example, I was fortunate to serve on the PSC in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Prods. Liab. Litig.*, 15-MD-2672-CRB (N.D. Cal.), an MDL before the Honorable Charles R. Breyer in this District. That case, the largest consumer settlement in history, had many of the same features of this case – a fraud on the public, a breach of federal statutes and regulations, and important national public policy concerns. As a member of the trial team, I focused on VW’s document destruction in the immediate aftermath of the public disclosure of the scandal. That effort – which necessitated an understanding of VW’s and Bosch’s sophisticated computer systems – will undoubtedly prove to be a useful and helpful experience in this data intensive case.

As this Court may also be aware, VW is not alone in allegedly defrauding the public and federal (and California) regulators when it comes to diesel emissions. I am currently Co-Lead counsel in *In Re Mercedes Benz Emissions Litig.*, Civ. No. 16-881 (D.N.J.), before Chief Judge Jose L. Linares, which alleges that Mercedes, just like VW, utilized illegal software to defraud the American public and federal regulators as to the emissions of their diesel vehicles. I am also co-counsel in a suite of other emissions fraud cases across the country involving the same technologies and allegations: *In Re Duramax Diesel Litig.*, Case No. 17-cv-11661 (E.D. Mich.) (GM & Bosch), and *Counts v. General Motors*, Case No. 16-cv-12541 (E.D. Mich.) (Chevrolet Cruze Diesel), both before Judge Thomas L. Ludington; *Gamboa v. Ford Motor Co.*, Case No. 2:18-cv-10106 (E.D. Mich.), before Judge Denise Page Hood (Ford & Bosch); and *Maccanelli vs. BMW of North America, LLC*, Case No. 2:18-cv-04363 (D.N.J.), before Judge John Michael Vazquez (BMW and Bosch). Relatedly, I was appointed Co-Lead Counsel in *In re: Caterpillar, Inc. C13 and C15 Engine Prods. Liab. Litig.*, MDL No. 2540 (D.N.J.), which successfully resolved claims that Caterpillar’s diesel emissions systems were defective and de-rated and shut down at unacceptably high rates. These complex regulatory and engineering cases all suggest my suitability for appointment to this equally complex matter.

But, as noted above, my practice is not limited to emissions fraud cases. I am sole Lead Counsel in *In re: Liquid Aluminum Sulfate Antitrust Litigation*, MDL 2687 (D.N.J.), an important national MDL involving bid rigging and price fixing in the market for Liquid Aluminum Sulfate, a coagulant utilized in water treatment and paper production. As sole Lead Counsel, I am responsible for managing a Court-appointed PSC of eight law firms each of which is a recognized leader in the antitrust field.

Other cases of national importance that reflect my abilities and commitment to high-stakes litigation include *In Re: National Prescription Opiate Litig.*, Case No. 1:17-MD-2804 (N.D. Ohio), and *In Re: Takata Airbag Prod. Liab. Litig.*, MDL No. 2599 (S.D. Fla.), an MDL before the Honorable Federico A. Moreno. In *Opioids*, I represent the largest Counties in New Jersey which have been devastated by the ongoing opioid epidemic. In *Takata*, I was appointed to the PSC to prosecute, along with Co-Lead Counsel, the defective airbag litigation pending in the Southern District of Florida against Takata Corporation and many vehicle manufacturers. This is an important national case not only because of the seriousness of the underlying damage to vehicle owners and occupants, but also because of its size—it is the largest vehicle recall in our Nation’s history. To date, the *Takata* MDL has resulted in over one billion dollars in settlements.

My practice also includes considerable expertise prosecuting complex pharmaceutical class actions including as Co-Lead Counsel in *In re: Vytorin/Zetia Marketing and Sales Practice Litigation*, MDL No. 1938 (D.N.J.), which concerned the manipulation of a clinical drug trial regarding the

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statin Vytorin. I was Liaison Counsel in the parallel securities case. Both actions were successfully resolved through substantial settlements. I am also currently Chair of Plaintiffs' Executive Committee in *In re Effexor XR Antitrust Litig.*, Lead Case No.: 3:11-cv-05479 (D.N.J.), which concerns the suppression of generic competition by branded pharmaceutical companies.

I know that MDL courts are appropriately concerned with collegiality and professionalism. I believe my brethren in the bar will confirm that while I always represent my clients zealously, I do so in a measured and professional manner. I believe I can bridge gaps and like to seek consensus whenever possible and, for this reason, I have developed a particular skill resolving and settling difficult cases. Evidence of this experience and skill is my appointment as Settlement Liaison in *In re Aetna UCR Litigation*, MDL 2020 (D.N.J.). That case, a national class action involving out-of-network medical benefits, was comprised of a diverse group of plaintiffs and lawyers who were, candidly, often at war with themselves. The Honorable Faith S. Hochberg appointed me to manage the plaintiffs' litigation team in the settlement process, and to interface with both defense counsel and the Court-appointed mediator. The settlement negotiations, which took over eighteen months, were ultimately successful – due in large measure to my perseverance and ability to manage the expectations and personalities of both defense counsel and plaintiffs' litigation team. These skills and experience are directly transferable and valuable to the present case.

I am willing and able to commit resources to this important, time-consuming litigation; indeed, my firm has already done so. While I pass no judgment on the utility of Third Party Litigation funding, I do not utilize it. In fact, because the resources committed to these cases are ultimately my own, I am particularly committed to litigating cases efficiently but with all appropriate diligence.

As set forth in Exhibit 2, I enjoy broad national support for my application and believe that my varied range of litigation experiences - both on the defense and plaintiffs' sides - makes me well-suited for this appointment. In my spare time, I am a competitive runner and serve on a number of charitable boards dedicated to improving the lives of communities in Upstate New York through music and the performing arts. I am also the Chairman of a local theatre organization that produces children and adult plays in the Catskill Mountains.

I thank the Court for its consideration of my application for appointment as Lead Counsel or, alternatively, to the PSC.

Respectfully submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

/s/ *James E. Cecchi*

JAMES E. CECCHI